



# REPORTER

A publication of the California State University Emeritus and Retired Faculty Association

## COALITION LOSES LAWSUIT

The Third District Appellate Court on March 12 issued its "shocking" decision that the Governor and the Legislature acted legally when they (1) directed PERS to give the state 1.9 billion dollars of PERS funds in order to help balance the state budget for 1991-1992 and (2) removed the actuarial function from PERS and placed it in the governor's office. This decision came in response to a lawsuit filed August 1, 1991, by the Public Employee and Retiree Coalition. The Coalition is a group of state, county, and city employee and retiree organizations formed to fight AB 702, the legislative act that authorized the State to take the PERS funds. CSU-ERFA is part of this coalition.

These funds, earned by wise investment practices of PERS, were being used to bolster retiree pensions hard hit by inflation. Governor Wilson had advised the Legislature that unless it agreed to take these funds from PERS for the budget and place the actuarial function under his control he would veto the budget. Initially, the Governor had also tried to restructure the PERS board so that he would gain effective control of all of the PERS funds. "Fortunately," CSU-ERFA President Dobkin observes, "the Legislature did not let him get away with this treachery." The Governor's success in gaining actuarial control over the PERS funds is critical since the actuary forecasts the yield the fund is expected to earn and thereby determines how much money the state, counties, and cities must pay into the fund each year to cover retirement costs for current employees. Obviously, the less these organizations pay into the fund, the faster the fund diminishes.

In the lawsuit, the Coalition asked the Court to return the "stolen" money and the actuarial function to PERS. The Court denied both claims.

In the unanimous decision, the three-member panel of justices said AB 702 provided sufficient protection to guard the impartiality of the actuary. The justices also disagreed with the Coalition's contention that retirees had a vested right to receive benefits from the two cost of living funds the \$1.9 billion would have made available.

Justice Coleman Blease wrote that retirees do not have a vested right to cost of living plans created after they have retired and that the plan created by AB 702 adequately compensates retirees.

The Coalition, according to the CSU-ERFA Executive Director Jack Byrom, is considering appealing this decision to the State Supreme Court. Byrom also comments, "This decision of the Appellate Court seems so patently illegal to me in the light of previous court decisions—of course I am not an

## PRESIDENT'S MESSAGE

Today, I must start with a discussion of the bad news about the Coalition's loss of the lawsuit (reported in column one, this page, of the *CSU-ERFA Reporter*). But that news will be tempered with some better news to follow.

When the Governor learned that the State had won the lawsuit authorizing it to raid the PERS funds, the press reports from his office included a special distortion: the Governor's press secretary is reported to have said on behalf of the Governor that the Court's decision was "an important step in reforming the retirement reserves for state workers. . . Taxpayers paid into the account beyond what was necessary to insure integrity of the retirement reserves."

All of you know by now that the money stolen by the enactment of AB 702 was that money *earned by the funds contributed by those who worked while members of PERS, not by "taxpayers."* (Of course, all of us are taxpayers as well.) Further, these were the funds that restored to a modest degree the purchasing power of our oldest pensioners.

George Orwell must be smiling at the press secretary's language!

Well, it is not over until the State Supreme Court sings. We knew that the side which lost at the appellate level would appeal and that even then the final decision would bring down the curtain only on the lawsuit phase of the struggle.

The better news has to do with the progress of the Pension Protection Initiative campaign.

As you will surely read elsewhere in this issue of the *CSU-ERFA Reporter*, the most recent report is that the total number of signatures has nearly reached the quantity needed to qualify it for the ballot in November. Your contribution is marvelous "gold star" quality! Of the twenty members of the Coalition (Californians for Pension Protection), CSU-ERFA is

*(continued as Dobkin, p. 2)*

attorney—that I am disillusioned and wonder if the political realities are such that even the California Supreme Court may cave in. Although Federal law prohibits private organizations from stealing pension funds, so far the Congress has done nothing to prevent governmental thievery. This decision demonstrates how important it is that we pass the initiative to amend the state constitution to prohibit raids on PERS pension funds." Byrom is referring to the initiative known as the Pension Protection Act of 1992; the collection of signatures to place this initiative on the November ballot is now underway.

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one of three organizations that have already passed their signature goal. Of course, CSU-ERFA would like to be number one on a percentage-over-goal basis, so keep these forms coming to the Northridge office. Do not forget, the Coalition still needs additional signatures to guarantee the minimum number needed in order to qualify the initiative for the ballot. When the Secretary of State has certified the Initiative has qualified, CSU-ERFA must then help with the election campaign.

Other matters briefly addressed:

Your executive committee members and officers have been quite busy since December. In January Wilma Krebs (CSU-ERFA Legislative Chair) and I appeared in a PERS Forum at CSPU Pomona in a program sponsored by CSU-ERFA and the CSPU Pomona CFA chapter. Interested members may purchase a copy of the symposium (see related story on this page) or borrow a copy by contacting Executive Director Jack Byrom at the CSU-ERFA Northridge office.

A meeting of a select ad hoc committee of CSU-ERFA was held at CSULA in January to help Jack Byrom and me prepare for subsequent meetings with Chancellor Munitz and with CFA officials.

In our meeting with Chancellor Munitz and selected staff, Byrom and I felt we were cordially received and we concluded that we had a productive meeting. But more about the outcome of this meeting when we get underway some of the potential plans we discussed—M. Dobkin, CSU-ERFA President (Hum).

### NEEDED, CSU RETIREE PHONE TREES

The CSU-ERFA Phone Tree Committee recently sent a memo to all CSU retiree group leaders. Its purpose: to stress the need to create local phone trees where none yet exist and to expand fledgling networks.

At present the state committee has five regional phone tree chairs, each to contact three or four local retiree group phone tree chairpersons in case of urgent need or emergency.

Our immediate concern on the campus level is two-fold. First, we need the name, address, and phone number of your local phone tree chair and the same data for an alternate should your chairperson be out of town. Second, we would appreciate your effort toward creating a local phone tree committee large enough to reach all those members of your group who can be dialed locally without toll charges.

We can be sure of crises in the future matching that of the budget crisis of 1991; crises that will call for letters, phone calls, and lobbying to protect our rights and our retirement fund.

The speediest and most effective way of calling retirees to arms is through the use of a well-organized phone tree. This can only be done by you on the local campus.

Please make the creation or the expansion of such a phone network a first priority of your group's spring program, since over seven hundred CSU retirees can be reached within a day or two by local phone tree callers making only local calls.

## SYMPOSIUM A SUCCESS

The January 30 symposium, "The Governor and the PERS Retirement Fund," was attended by eighty-five CSU retirees and faculty members. Funded by the Cal Poly Pomona chapter of CFA and jointly sponsored by CFA and CSU-ERFA, the program was held on the Pomona campus.

Participants included William Crist, former CFA president and now an elected member of the Public Employees Retirement System (PERS) state board of directors; Milton Dobkin, state president of CSU-ERFA, and William Krebs, CSU-ERFA legislative and political analyst. Also participating was Paul Ceja, legal counsel for Congressman Edward Roybal's House Committee on Aging, which will soon hold hearings in California on the Wilson administration's mis-use of PERS retirement funds.

The entire program was video-taped and then edited to forty-one minutes for use by CFA chapters, by CSU retiree groups, and by other interested public employee unions and retiree groups as part of the current initiative petition drive.

Those retiree groups affiliated with CSU-ERFA which have ordered the tape so far include Humboldt, Long Beach, Sacramento, Northridge, and Fullerton. In addition copies have been ordered by RPEA headquarters in Sacramento, by RPEA Area VI (representing San Bernardino and Riverside counties) and by CSEA Pomona.

At the symposium close to one hundred initiative petition forms were picked up by audience members bent on turning good intentions into good work.

Any group interested in receiving a copy of the VHS video-tape of the symposium may order it by sending a request and a \$15.00 check made out to Cal Poly CFA, to William A. Smith, 773 Bonita Ave., Claremont, CA 91711.—Smith (Pom).

### THE DEATH OF NICHOLAS P. HARDEMAN

On January 9 CSU-ERFA lost its liaison to the CSU Academic Senate, Nicholas P. Hardeman (LB). Perk, as he preferred his friends to call him, served CSU-ERFA in the Senate with great success; his outstanding negotiating skills account for the numerous achievements CSU-ERFA obtained in the programs it asked Perk to carry to the Senate.

But even of greater significance is the loss of a truly remarkable gentleman, distinguished scholar, and acknowledged outstanding teacher.

### STATE COUNCIL MEETING SCHEDULED

The Executive Committee has selected Los Angeles as the place for the next state council meeting on May 2. Executive Director Byrom anticipates that the meeting will be held at the Holiday Inn Crown Plaza Hotel on Century Blvd., near Los Angeles International Airport.

As for the names and numbers of campus group phone tree chairpersons and alternates, please send them to state phone tree chair, William A. Smith, 773 Bonita Ave., Claremont, CA 91711.—Smith (Pom)

## INITIATIVE DRIVE TO SAVE PERS

As of March 10 the California Pension Protection Act Coalition (CPPAC) had gathered more than 800,000 signatures and says it expects to have one million by April 8—the number desired in order to guarantee the 618,000 valid signatures required to put the measure on the November ballot. CSU-ERFA members have managed to collect over 7,000 signatures even though the pledge was for only 5,000. CPPAC advises CSU-ERFA has one of the highest member-to-signature ratios of all participating organizations.

When volunteers from the participating organizations obtain these signatures, CPAC saves thousands of dollars; each signature obtained by professional signature gatherers costs seventy cents.

Unfortunately, with the due date of April 10 facing CPPAC, the desired goal of one million signatures is still 100,000 short. According to Michael Ganley CPPAC field coordinator, it is not too late for members to send in additional petitions.

Taxpayer organizations, retirees, senior citizens, and public employees are backing this drive designed to prevent the State from taking pension funds and to return the actuarial function to PERS from the governor's office.

In early March Congressman Pete Stark signed the petition and announced that he would work for passage of the initiative if it qualifies for the November ballot. Stark observed that if Governor Wilson "were running a private business, he'd be committing a felony" with his use of PERS funds to balance the state budget.

"In view of the appellate court's decision that PERS funds may be used to balance the state budget, it becomes even more urgent for members of the Coalition to work as hard as possible to qualify the initiative for the November ballot. The general public is tending strongly to agree with us that it was morally wrong for the state to take the pension funds. If we can get voters to register and to turn out on election day, we stand an excellent chance of getting a favorable vote," advises Wilma Krebs, CSU-ERFA Legislative Chair (Sac).

CPPAC announced that by the first of March it had raised almost \$450,000 for the initiative campaign. "That amount is about half of the \$900,000 total signature phase budget—and a step in the right direction for the total campaign effort," according to *The Pension Post*. CSU-ERFA will welcome further contributions. Checks may be made out to Coalition for Pension Protection and mailed to CSU-ERFA.

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## REPORT ON CSU ACADEMIC SENATE

At the meeting of the CSU Academic Senate March 4-6 Chair Sandra Wilcox announced the Outstanding Professor Awards for this year go to Harold Charnofsky (DomH) and Richard G. Botzler (Hum).

The 1992-93 budget occupied much of the senate's time in view of the serious financial problems facing the CSU. The 1991-92 appropriation was 1,645,249,000 for 270,050 FTEs; the 1992-93 amount is to be 1,663,357,000 for 272,650 FTEs. Unfortunately, the extensive increases in operating

## TENURE OF FERPERS STILL AT ISSUE

Perk Hardeman's final grand effort (see story about his death, page 2) was the passage of a resolution in the CSU Academic Senate on behalf of FERPers (Faculty Early Retirement Program) whose tenure rights were damaged at two campuses. The CSU Academic Senate unanimously passed a resolution recommending an immediate revision of the current CSU memorandum of understanding on layoff provisions and the recognition of the rights of 1983 FERPers to the provisions under which they agreed to retire early. (At two campuses, for all practical purposes, the 1983 FERPers lost tenure; they were subject to layoffs pretty much as if they were part-timers, although this description is an over simplification of a complex issue.)

At the February 20 CSU Academic Senate meeting, Senate Chair Sandra Wilcox reported that CSU Vice Chancellor Kershner responded negatively to the resolution: "After taking into account the advice of the Management Advisory Group, we [chancellor's office] have decided that a revision of the agreement is not appropriate at this time."

Later, in his response, Kershner writes (with respect to the 1983-1987 FERPer program): "However, our staff will continue to work cooperatively with campus presidents to help mitigate any faculty layoffs which may be required by lack of funds within the provisions of Article 38."

CSU-ERFA President Milton Dobkin and CSU-ERFA Legislative Chair Wilma Krebs attended the CFA March 6-7 CFA board meeting (they appeared on behalf of CSU-ERFA members who happened to be FERPer victims as well). The impression Dobkin and Krebs received at this meeting was "that CFA had been faced with a lack of bargaining movement on a successor memorandum of understanding in general as well as on the FERP issue in particular."

Meanwhile, the "class action" grievance filed by CFA on behalf of all FERPers who had received layoff notices has moved to arbitration with the original hearing now rescheduled because of an illness of a participant.

At the March 7 CSU-ERFA Executive Committee, the Committee urged Dobkin, unless some meaningful positive progress occurs, to seek the assistance of AAUP since protection of tenure is at stake —Dobkin (Hum)

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costs indicate that the small increase in the forthcoming budget is inadequate since the following are not funded: merit salary adjustments—23,314,500; instructional equipment replacement—9,136,403; communications and system offices—4,621,069; computing support—11,740,624; Cal grants—9,616,395; health premium increases—12,000,000; for a total of 70,428,991.

Additionally, the Senate (1) approved a proposal to support an increased number of tuition waivers for international students; (2) opposed AB 3319 (Hayden), a spot bill dealing with teaching loads, with prohibition of requiring the doctorate for new academicians, and with opening the libraries to the public; and (3) asked for a review of campus and system sexual harassment policies.

(continued p. 4 as academic senate)

**LEGISLATIVE REPORT**

The following bills of concern to CSU-ERFA retirees have been introduced into or passed by the California legislature:

AB 3187 (Hauser). Would allow "excess" PERS earnings to be transferred to state and contracting agency accounts.

SB 1322 (Russell). Would allow increased options for survivor's continuance benefits.

SP 707 (Green). Passed. Authorizes funding for vision care for employees and retirees but does not appropriate any funds to provide the funding.

SB 1268 (Maddy). Establishes term limits for PERS board members.

The Executive Committee voted to oppose SB 1268 and AB 3187 and to support SB 1322.

**DON MOORE LIAISON TO CSU SENATE**

CSU-ERFA President Dobkin announced at the March 7 Executive Committee meeting that he had appointed Don Moore (LA) to be the CSU-ERFA Liaison to the CSU Academic Senate to replace Perk Hardeman, who died January 9 (See related story, p. 2.)

*(continued from p. 3, academic senate)*

In response to the decision of the Trustees to raise student fees 40 per cent for the academic year 1992-93 after the 20 per cent increase already implemented for the academic year 1991-92, the Senate adopted this policy position: (1) The state should provide expanded financial aid effectively accessible to lower-income and middle-income students who would be substantially impeded; (2) The state should establish a long-term and stable methodology to assure that the share of the cost of higher education students pay will be reasonable and predictable. (3) The state should commit to increasing the CSU budget, as the state's economic condition improves, to a minimum of \$6,994 per FTE, adjusted each year for cost-of-living.

**CFA AND CSU-ERFA COOPERATION?**

For several years CFA and CSU-ERFA have worked together when they found common interests. Although CFA can not legally represent retirees, the fact is that CFA in its representation of current faculty does represent retirees in that current faculty usually become retirees. Because of this "indirect representation," CFA has sought the counsel of CSU-ERFA in many instances. Although CFA and CSU-ERFA have on rare occasions taken contrary positions on issues, the two organizations have usually been in accord. For this reason, CFA and CSU-ERFA have begun talks to create a memorandum of understanding on how the two groups can work together.

At its March 7 meeting the CSU-ERFA Executive Committee recommended that CSU-ERFA should develop a memorandum of understanding. Such MOU should provide for (1) optional, additional, complimentary memberships to be developed "by each organization which will be honored by the cooperating organization (e.g., a CFA retiree member may elect CSU-ERFA membership without additional cost; a CSU-ERFA member may elect CFA retiree membership at no additional cost.)" (2) "CFA should forward the income from its retiree membership dues to CSU-ERFA . . . to support activities of mutual benefit to retirees in both organizations." (3) "The organizations shall endeavor to find areas of common interest to faculty retirees on which cooperative action can take place while retaining independence of decision-making regarding whether to take combined action on such matters." (4) Both "organizations will look toward the development of mutual use of physical, support, and technological resources as may be appropriate for the benefit of both organizations."

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